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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/518,120	03/03/2000	David L Robinson	0739D-000074	7587

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EXAMINER

EDELL, JOSEPH F

ART UNIT

PAPER NUMBER

3636

DATE MAILED: 02/07/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

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Office Action Summary	Application No. 09/518,120	Applicant(s) ROBINSON ET AL.	
	Examiner Joseph F Edell	Art Unit 3636	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 09 January 2002.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-8 and 10-22 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-8 and 10-22 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ | 6) <input type="checkbox"/> Other: |

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1, 5, 7, 8, and 12 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 5,344,215 to Dahlbacka.

Dahlbacka discloses a recliner mechanism that includes all the limitation recited in claims 1, 5, 7, 8, and 12. Dahlbacka shows a recliner mechanism that includes a housing 56 (Fig. 3) and guide mechanism 62 (Fig. 3), a latching mechanism with side wall 74 (Fig. 3) and locking pawl actuator 90 (Fig. 3) which actuates relative to the housing, as well as a recliner rod 54 (Fig. 3) having a plurality of teeth 72 (Fig. 3) and substantially planar top and bottom flats.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 5,344,215 to Dahlbacka.

Dahlbacka shows a recliner rod (Figs. 1-5), as discussed above, that is basically the same as that recited in claim 4 except that the rod cross section has a rectangular shape, as opposed to a hexagonal shape. However, it would have been an obvious matter of design choice to make the specific hexagonal cross sectional shape, since such a modification would have involved a mere change in shape of the rod and the disclosure acknowledges that a hexagonal cross section and a rectangular cross section are equally superior to a cylindrical cross section rod to ease the task of fixturing and retaining the recliner rod. A change in shape is generally recognized as being within the level of ordinary skill in the art. In re Rose, 105 USPQ 237 (CCPA 1955).

5. Claims 2, 3, 6, 10, 11, and 13-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dahlbacka in view of U.S. Patent No. 5,618,083 to Martone et al.

Dahlbacka teaches all the limitations of claims 2, 3, 6, 10, 11, and 13-17 as discussed above except for a stop integrally formed to recliner rod and rivets coupled to the housing. Figures 3-8 of Martone et al. show a recliner rod that has a stop 52 (Fig. 4) integrally formed to the rod. Also, Marton et al. show rivets 92,94 (Fig. 4) in the housing of the reclining mechanism. It would have been obvious to one of ordinary skill at the time the invention was made to modify the recliner rod to employ a stop integrally formed to the rod that engages the housing in the reclined position and use rivets coupled to the housing of Dahlbacka, as taught by Martone et al. One would have been

motivated to make such modifications in view of the suggestions in Martone et al. that stops and rivets are cost effect means to limit the movement of the recliner rod and to retain the housing around the rod, respectively.

6. Claims 18-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dahlbacka in view of U.S. Patent No. 5,618,083 to Martone et al.

Dahlbacka, as modified, teaches all the limitations of claims 18-20 except the method of forming the recliner rod is not set forth. Although the method of forming is not specifically recited, forming metal rods using extrusion and coining techniques would have been obvious to one having ordinary skill at the time of applicant's invention as a matter of engineering choice. One would have been motivated to make such a modification in further view of the suggestions in Martone et al. for cost effective purposes.

7. Claims 21 and 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dahlbacka in view of U.S. Patent No. 5,823,622 to Fisher IV, et al.

Dahlbacka shows a recliner rod that is basically the same as that recited n claims 21 and 22 except that it lacks a ball joint assembly, as recited in the claims. Fisher IV, et al. disclose a recliner rod similar to that of Dahlbacka wherein the recliner rod has a ball joint assembly 56 (Figs. 1-7). It would have been obvious to one of having ordinary skill in the art at the time the invention was made to modify the recliner rod of Dahlbacka such that is has a ball joint assembly, such as the recliner rod disclosed by Fisher IV, et

al. One would have been motivated to make such a modification in view the suggestion in Fisher IV, et al. that ball joint insure pivotal rotation of rod.

Response to Arguments

8. Applicant's arguments filed 09 January 2002 have been fully considered but they are not persuasive. Applicant asserts that Dahlbacka teaches a recliner mechanism where the housing and head actuate for sliding motion, yet the Applicant has a recliner mechanism that solely uses the latching mechanism actuation for sliding motion. Figure 2 of Dahlbacka shows a cross-section of the recliner mechanism with trunnion 89 of the housing coupled to the seat bottom via semi-cylindrical seats 42,44 (Fig. 1). The housing maintains a stationary position throughout the motion of the recliner rod. Thus, the latching mechanism actuates *relative* to the housing and engages a plurality of teeth of the reclining rod. Moreover, even if the Applicant's assertion that the housing and head actuate for sliding motion of the recliner mechanism was accurate that does not differentiate from the recliner mechanism recited in claims 1 and 8. As a result, claims 5, 7, and 12 are rejected as set forth above regarding claims 1 and 8. With respect to claims 2, 4, 6, and 10, Examiner rejects the claims for reasons stated above.

9. Claims 3, 11, 13, and 18 are rejected in light of the teachings in Martone et al. regarding the use of rivets adjoining housing and rod stops. Applicant asserts that Martone et al. does not specifically designate the stop integrally formed in the recliner rod. Examiner points out that the legal precedent established by prior case law In Re Larson, 144 USPQ 347 (CCPA 1965) states that it is within the general skill of a worker

in the art to make plural part unitary as a matter of obvious engineering choice. Further, it would have been obvious to modify the recliner rod of Dahlbacka by integrally forming a stop to facilitate assembly and lower manufacturing costs as testified in the Applicant's response received on 05 June 2001 (page 9, line 17). As a result, claims 14-17 are rejected as set forth above regarding claims 3, 11, 13, and 18. With respect to claims 21 and 22, Examiner rejects the claims for reasons stated above.

Upon consideration of the Applicant's arguments, Examiner maintains the rejections of claims 1-8 and 10-22.

Conclusion


10. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Art Unit: 3636

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joseph F. Edell whose telephone number is (703) 605-1216. The examiner can normally be reached on Mon.-Fri. 8:30am-5:00pm.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-2168.

JE 
February 1, 2002


Peter M. Cuomo
Supervisory Patent Examiner
Technology Center 3600